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Patient Care Ombudsman, pro hac vice

**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

IN RE:	Jointly Administered Under Case No: 23-42098-btr Chapter 11
REMARKABLE HEATHCARE OF CARROLLTON LP; EIN: 5960	
REMARKABLE HEALTHCARE OF DALLAS, LP; EIN: 3418	
REMARKABLE HEALTHCARE OF FORT WORTH, LP; EIN: 1692	
REMARKABLE HEALTHCARE OF SEGUIN, LP; EIN: 4566	
REMARKABLE HEALTHCARE, LLC, EIN: 5142 DEBTORS.	

**PATIENT CARE OMBUDSMAN FIRST REPORT
Dallas Location**

Pursuant to 11 U.S.C. § 333 of the United States Bankruptcy Code (the “Code”) and the court’s December 5, 2023, *Order Granting United States Trustee’s Unopposed Motion for Order Directing Appointment of Patient Care Ombudsman* (the “**Appointment Order**”) [Docket No. 57], Susan N. Goodman was appointed to serve as the Patient Care Ombudsman (“**PCO**”) for each of the four healthcare facility Debtors in these jointly administered cases.¹

¹ The *Notice of Appointment of Patient Care Ombudsman* (the “**Appointment Notice**”) [Docket No. 58] was filed with the court the same date of the Appointment Order.

In the *United States Trustee's Unopposed Motion for Order Directing the Appointment of Patient Care Ombudsman* (the “**Appointment Motion**”) [Docket No. 44], PCO was directed to monitor the care provided to patients/residents of the Debtors and report to the court no later than thirty (30) days after the lodging of the Appointment Order. The Appointment Notice included PCO’s curriculum vitae and other supporting documentation to support her competence to serve as the PCO. These pleadings are incorporated by reference herein. Of note, while PCO’s site visit is guided by the regulations/tools utilized by certifying agencies and auditors, PCO does not certify the Debtors’ compliance with any state or federal licensure standards.

Shortly after the lodging of the Appointment Order and Appointment Notice, PCO engaged in initial site visits at each of the four Debtors’ locations. PCO comes now and files her first report for the Remarkable Healthcare of Dallas, LLP location (“**Debtor**” or “**Dallas**”).

SUMMARY

The Dallas location is the largest facility, with a total of 150 licensed beds. Its layout is unique as compared to the other three locations. The layout is that of a half asterisk with a main entry hall (the 100 hall) running the length of the building with the dining and kitchen areas located at the end of this main hall at the back of the building. In the middle of the building, four additional resident halls arise from a centrally located nurses’ station. Like the other locations, the total number of resident beds are divided equally across two units called “Kinser” and “Recovery.”

At the time of PCO’s site visit, the census was in the low 60’s. The 300 hall was not being utilized for resident occupancy and was reserved for a quarantine unit, if needed. At the time of PCO’s site visit, this building did not have active COVID cases.

The facility administrator went by the title of chief executive officer or “**CEO**”. The CEO had repetitive previous experiences working for the Debtors, although returned to his current position in Fall 2023. He was not employed by the Debtors through the previous bankruptcy. Through his extensive connections in the long-term-care industry, the CEO reported successful recruitment of a new Director of Nursing (“**DON**”) and Senior Assistant Director of Nursing (“**Sr. ADON**”) within the last month. The MDS Nurse, the individual who is tasked with the assessment,

coordination, and timely filing of resident documentation that roles up to federal government program payments, was also noted as being new to the Dallas location.

Dallas also had a second Assistant Director of Nursing (“**ADON**”), who was present on the date of PCO’s site visit. Consistent with PCO’s observation of the other facilities, the ADON was working as an individual contributor to assist with filling direct staffing needs.

Clinical staffing at the time of PCO’s site visit was accomplished two nurses, two medication aids, and three certified nursing assistants (“**CNAs**”) to care for 62 residents. Three to four CNAs for the current census level were cited as the “typical” CNA staffing coverage.

The Dallas location had two distinct clinical staff coverage tracks for the nursing and medication aid roles. One group worked Monday through Friday in eight-hour shift rotations. A second group worked what was called a “Double Weekend” shift – essentially working 16-hour shifts Saturday and Sunday only – earning full-time pay while working two days. While staff “call offs” or “no shows” are challenging overall, when they occur on a Double Weekend shift the challenge to fill the void is amplified.

PCO engaged in a call with the CEO, DON, and Sr. ADON in advance of report filing to confirm her impression that the largest challenge at this facility is developing and maintaining a robust staffing pool. The clinical leaders agreed. They reported having ten full-time CNA vacancies; three full-time medication aid vacancies; and, and two nursing vacancies. Additionally, leadership reported the need to build a staffing reserve such that additional performance management efforts could be embarked upon relative to chronic, unacceptable staff behaviors that have been tolerated to an extent out of staffing necessity. Nursing leadership reported regularly having to come in and fill staffing gaps, a strategy that ultimately resulted in nursing leadership resignations at sister locations.

The CEO reported continued, post-petition engagement of the wound physician and the Medical Director physician. The Medical Director was on site and asked to speak with the PCO. The Medical Director shared an extensive history of non-payment. He cited “losing money” in the first bankruptcy coupled with a twenty-eight-month payment arrears including post-petition medical

director fees. PCO noted that the medical director cared for most of the residents at the facility and was willing to manage chronic pain contract residents who require more intensive prescription engagement and monitoring.

The Plant Operations (“**Plant Ops**”) Manager was also relatively new to the Dallas location. His background in HVAC and other equipment repair was easily noted with his reported engagement fixing one of the laundry dryers², cleaning and servicing the kitchen hood, replacing a kitchen disposal, repairing the kitchen steam table, and repairing other items, including resident beds. He reported working through the documentation that was left from the prior Plant Ops Manager to organize the life safety code and other maintenance scheduling required by the role. To that end, PCO identified the need for additional fire drills, hot water heater repairs to support the laundry services team, and oxygen storage improvements. At the time of report filing, these repairs remained outstanding, yet a fire drill was reported as completed and hot water heaters ordered.

Because PCO was not able to locate a copy of the most recent survey posted at the facility, she reviewed the June 2023 survey findings through the Medicare website after her site visit. Those results included condition-level³ findings in the dietary services department. PCO toured the kitchen and food-storage areas. Dry stock food supplies were limited, with the dietary manager reporting a recent increase in his weekly food budget. PCO discussed missing temperature log items with the dietary manager and the CEO along with other incidental observations, including emergency water calculations, keeping trash out of the dumpster that was no longer being serviced by the pre-petition vendor, and the maintenance sticker for the kitchen power vent. Clinical staff feedback regarding menu substitution and portion concerns was also relayed through leadership.

² The Dallas location had three commercial washing machines and four commercial dryers. Two washing machines and two dryers were operational at the time of PCO’s visit, with one of the two dryers reported as recently repaired.

³ All survey deficiencies are assigned a category based on the level of harm (potential to actual) and the pervasiveness of the finding – meaning did the deficiency affect a few residents, some residents, or many residents. Categories range from A (the least severe) to L (the most severe). Findings classified as category F or higher are deemed condition level deficiencies – indicating a more significant level of non-compliance.

In advance of this report, the CEO reported replacement of the dietary manager role with improvement on the topics discussed at the time of PCO's site visit. PCO will introduce herself to the new dietary manager in the interim reporting period.

Disposable supplies were reported as improved compared to outages that were experienced pre-petition, that included running out of incontinence supplies for residents. Staff universally credited their CEO for personally securing supplies and food when needed. At the time of PCO's visit, trash bags were reported as in short supply in some sizes.

Replacement clinical laboratory, specialty transportation, and portable x-ray services were reported as in place. Replacement dietitian services, with a lapse in the engagement of this professional noted in the June 2023 survey, were not in place yet anticipated.

NEXT STEPS

The Dallas location recently added leadership in the clinical, MDS, and Plant Ops functions, with new dietary leadership most recently reported. These changes seem grounded in the CEO's ability to use his professional network to build a team at this location. Like the other locations, the foremost reported challenge was recruitment and retention of direct care staff. Some departures associated with pay and insurance challenges pre-petition were reported. Limited CNA staff was also cited as a basis for tolerating performance challenges such as poor attendance that might otherwise result in performance attrition. Like the Seguin location, Dallas team members also reported uncompetitive pay benchmarks as contributing to staffing challenges. Continued dietary services challenges consistent with those cited in the prior survey were apparent, yet seemingly not associated with the bankruptcy filing, and on a corrective course at the time of report filing. While this location would probably not be the driver for PCO revisiting the jurisdiction sooner than sixty days, it would be included in any revisits to the area in the interest of financial stewardship.

Consistent with PCO's discussion in her report filing for a sister location, PCO has significant concerns about adding administrative burden to this and the other Debtors' locations given the significant staffing challenges the team is experiencing on a regular basis. Without an

influx of staffing to relieve the shortages reported to PCO, continued resignations may occur, and safe delivery of clinical services will be further challenges in a way that could implicate § 333(b).

DATED: January 1, 2024.

By: /s/ Susan N. Goodman; TX Bar 24117585

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was served through the court's electronic notification system as permitted by Appendix 5005 of the Local Rules of the U.S. Bankruptcy Court for the Eastern District of Texas on the 1st of January 2024, with a copy for posting at the Debtor location. Further, a copy of the pleading filed at Docket No. 72 was mailed, USPS Regular Mail, to the following, top 30 creditors (combined) with the Seguin Report filing.

New Benefits Ltd.
PO Box 803475
Dallas TX 75380

New Source Medical
9913 Shelbyville Rd
Louisville KY 40223

North Texas Fire Systems, LLC
PO Box 880
Sanger TX 76266

Optima Healthcare Solutions, LLC.
PO Box 72046
Cleveland OH 44192

Performance Foodservice
524 West 61st street
Shreveport LA 71106

Pharmacy Unlimited
PO Box 592602
San Antonio TX 78259

PointClick Care Technologies INC
PO BOX 674802
DETROIT MI 48267

Progressive Commercial
PO Box 650201
Dallas TX 75265

Simply Work
PO Box 2172
Neenah WI 54957

Southern Cross Ambulance
PO Box 311295
New Braunfels TX 78131

The PICC Team DFW
4500 Northside Dr.
Amarillo TX 79108

Trans-Care Medical Transport
PO Box 14274
Fort Worth TX 76117

WellSky Corporation
11300 Switzer Road
Overland Park KS 66210

Ability Network Inc PO Box 856015 Minneapolis MN 55485	Abshire Dietary Consultants P.O. Box 1635 El Campo TX 77437	AT&T MOBILITY (Account 877003191) PO Box 6463 Carol Stream IL 60197-6463
Auto-Chlor P.O. Box 669126 Dallas TX 75266	Biomedical Waste Solutions PO Box 1147 Port Neches TX 77651	Blue Cross Blue Shield of Texas P.O. Box 731428 Dallas TX 75373-1428
Care One Communications LLC PO Box 153122 Dallas TX 75315	Carrington Coleman 901 Main Street Dallas TX 75202	Center Point Energy PO Box 4981 Houston TX 77210
City of Dallas City Hall, 2D South Dallas TX 75277	City of Fort Worth 818 Missouri Ave Fort Worth TX 76104	City of Seguin PO Box 591 Seguin TX 78156
Colleyville Lofts Ventures LLC - Attn Acctg 1700 Pacific Ave, Ste 1650 Dallas TX 75201	Crown Shields Transport LLC 11617 Lake Front Dr Frisco TX 75036	Dallas Life Support Systems Inc. 7440 Whitehall St. Richland Hills TX 76118
Dearborn National 36788 Eagle Way Chicago IL 60678	Diagnostex Consultants 8913 Mid Cities Blvd North Richland Hills TX 76182	Direct Energy Business P.O. Box 660749 Dallas TX 75266
Direct Supply, Inc. Box 88201 Milwaukee WI 53288-0201	Exponent Technologies Inc 4970 Landmark Pl Dallas TX 75254	Griffin Properties of Fort Smith PO Box 2207 Fort Smith TX 72902
Guadalupe Regional Medical Ctr 1215 E Court St Seguin TX 78155	IPFS Corporation P.O. Box 100391 Passadena CA 91189-0391	JJNEMT LLC 1741 Cross Creek Lane Cleburne TX 76033
Kaliber Data Security & Compliance 50 Franklin Street Boston MA 2110	Mas Vida Health Care Solutions 133 Nursery Ln Fort Worth TX 76114	Medina Valley Security, Inc. PO Box 1030 Lytle TX 78052
Medline Industries, Inc. Dept 1080 Dallas TX 75312	Neighborhood Portable Xray and Lab 6901 Avenue K #109 Plano TX 75074	Netsmart Technologies, Inc. PO Box 713519 Philadelphia PA 19171

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